

AMENDED IN SENATE JUNE 27, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1041

Introduced by Assembly Member Chesbro
(Principal coauthor: Assembly Member Garcia)
(Principal coauthor: Senator Beall)
(Coauthor: Assembly Member Ammiano)

February 22, 2013

An act to amend Sections 4646.5 and 4868 of, and to add Section 4869 to, the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1041, as amended, Chesbro. Developmental services: Employment First Policy.

The Lanterman Developmental Disabilities Services Act authorizes the State Department of Developmental Services to contract with regional centers to provide support and services to individuals with developmental disabilities. The services and supports to be provided to a regional center consumer are contained in an individual program plan (IPP), developed in accordance with prescribed requirements.

Existing law requires the State Council on Developmental Disabilities to, among other responsibilities, form a standing Employment First Committee to identify strategies and recommend legislative, regulatory, and policy changes to increase integrated employment, as defined, self-employment, and microenterprises for persons with developmental disabilities, as specified.

This bill would define competitive employment, microenterprises, and self-employment for these purposes. This bill would require each

regional center planning team, when developing an individual program plan for a transition age youth or working age adult, to consider a specified Employment First Policy. The bill would also require regional centers to ensure that consumers, beginning at 16 years of age, provide consumers 16 years of age or older, and, where appropriate, other specified persons, are provided with information about the Employment First Policy, about options for integrated competitive employment, and about services and supports, including postsecondary education, available to enable the consumer to transition from school to work, and to achieve the outcomes of obtaining and maintaining integrated competitive employment. The bill would authorize the department to request information from regional centers on current and planned activities related to the Employment First Policy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares that under
2 existing state and federal law, special education local planning
3 agencies (SELPA) have concurrent responsibilities to eligible
4 students beginning at 16 years of age for the provision of
5 assessment, planning, and necessary services to aid in the
6 transition from school to postschool activities.
7 (b) This act shall not be construed to expand the responsibilities
8 and duties of SELPAs under state and federal law.
9 ~~SECTION 1.~~
10 SEC. 2. Section 4646.5 of the Welfare and Institutions Code
11 is amended to read:
12 4646.5. (a) The planning process for the individual program
13 plan described in Section 4646 shall include all of the following:
14 (1) Gathering information and conducting assessments to
15 determine the life goals, capabilities and strengths, preferences,
16 barriers, and concerns or problems of the person with
17 developmental disabilities. For children with developmental
18 disabilities, this process should include a review of the strengths,
19 preferences, and needs of the child and the family unit as a whole.
20 Assessments shall be conducted by qualified individuals and
21 performed in natural environments whenever possible. Information
22 shall be taken from the consumer, his or her parents and other

1 family members, his or her friends, advocates, authorized
2 representative, if applicable, providers of services and supports,
3 and other agencies. The assessment process shall reflect awareness
4 of, and sensitivity to, the lifestyle and cultural background of the
5 consumer and the family.

6 (2) A statement of goals, based on the needs, preferences, and
7 life choices of the individual with developmental disabilities, and
8 a statement of specific, time-limited objectives for implementing
9 the person's goals and addressing his or her needs. These objectives
10 shall be stated in terms that allow measurement of progress or
11 monitoring of service delivery. These goals and objectives should
12 maximize opportunities for the consumer to develop relationships,
13 be part of community life in the areas of community participation,
14 housing, work, school, and leisure, increase control over his or her
15 life, acquire increasingly positive roles in community life, and
16 develop competencies to help accomplish these goals.

17 (3) When developing individual program plans for children,
18 regional centers shall be guided by the principles, process, and
19 services and support parameters set forth in Section 4685.

20 (4) When developing an individual program plan for a transition
21 age youth or working age adult, the planning team shall consider
22 the Employment First Policy described in Chapter 14 (commencing
23 with Section 4868).

24 (5) A schedule of the type and amount of services and supports
25 to be purchased by the regional center or obtained from generic
26 agencies or other resources in order to achieve the individual
27 program plan goals and objectives, and identification of the
28 provider or providers of service responsible for attaining each
29 objective, including, but not limited to, vendors, contracted
30 providers, generic service agencies, and natural supports. The
31 individual program plan shall specify the approximate scheduled
32 start date for services and supports and shall contain timelines for
33 actions necessary to begin services and supports, including generic
34 services.

35 (6) When agreed to by the consumer, the parents, legally
36 appointed guardian, or authorized representative of a minor
37 consumer, or the legally appointed conservator of an adult
38 consumer or the authorized representative, including those
39 appointed pursuant to subdivision (d) of Section 4548, subdivision
40 (b) of Section 4701.6, and subdivision (e) of Section 4705, a review

1 of the general health status of the adult or child, including medical,
2 dental, and mental health needs, shall be conducted. This review
3 shall include a discussion of current medications, any observed
4 side effects, and the date of the last review of the medication.
5 Service providers shall cooperate with the planning team to provide
6 any information necessary to complete the health status review. If
7 any concerns are noted during the review, referrals shall be made
8 to regional center clinicians or to the consumer's physician, as
9 appropriate. Documentation of health status and referrals shall be
10 made in the consumer's record by the service coordinator.

11 (7) (A) The development of a transportation access plan for a
12 consumer when all of the following conditions are met:

13 (i) The regional center is purchasing private, specialized
14 transportation services or services from a residential, day, or other
15 provider, excluding vouchered service providers, to transport the
16 consumer to and from day or work services.

17 (ii) The planning team has determined that a consumer's
18 community integration and participation could be safe and
19 enhanced through the use of public transportation services.

20 (iii) The planning team has determined that generic
21 transportation services are available and accessible.

22 (B) To maximize independence and community integration and
23 participation, the transportation access plan shall identify the
24 services and supports necessary to assist the consumer in accessing
25 public transportation and shall comply with Section 4648.35. These
26 services and supports may include, but are not limited to, mobility
27 training services and the use of transportation aides. Regional
28 centers are encouraged to coordinate with local public
29 transportation agencies.

30 (8) A schedule of regular periodic review and reevaluation to
31 ascertain that planned services have been provided, that objectives
32 have been fulfilled within the times specified, and that consumers
33 and families are satisfied with the individual program plan and its
34 implementation.

35 (b) For all active cases, individual program plans shall be
36 reviewed and modified by the planning team, through the process
37 described in Section 4646, as necessary, in response to the person's
38 achievement or changing needs, and no less often than once every
39 three years. If the consumer or, where appropriate, the consumer's
40 parents, legal guardian, authorized representative, or conservator

1 requests an individual program plan review, the individual program
2 shall be reviewed within 30 days after the request is submitted.

3 (c) (1) The department, with the participation of representatives
4 of a statewide consumer organization, the Association of Regional
5 Center Agencies, an organized labor organization representing
6 service coordination staff, and the Organization of Area Boards
7 shall prepare training material and a standard format and
8 instructions for the preparation of individual program plans, which
9 embody an approach centered on the person and family.

10 (2) Each regional center shall use the training materials and
11 format prepared by the department pursuant to paragraph (1).

12 (3) The department shall biennially review a random sample of
13 individual program plans at each regional center to ensure that
14 these plans are being developed and modified in compliance with
15 Section 4646 and this section.

16 ~~SEC. 2.~~

17 *SEC. 3.* Section 4868 of the Welfare and Institutions Code is
18 amended to read:

19 4868. (a) The State Council on Developmental Disabilities
20 shall form a standing Employment First Committee consisting of
21 the following members:

22 (1) One designee of each of the members of the state council
23 specified in subparagraphs (B), (C), (D), (F), and (H) of paragraph
24 (2) of subdivision (b) of Section 4521.

25 (2) A member of the consumer advisory committee of the state
26 council.

27 (b) In carrying out the requirements of this section, the
28 committee shall meet and consult, as appropriate, with other state
29 and local agencies and organizations, including, but not limited
30 to, the Employment Development Department, the Association of
31 Regional Center Agencies, one or more supported employment
32 provider organizations, an organized labor organization
33 representing service coordination staff, and one or more consumer
34 family member organizations.

35 (c) The responsibilities of the committee shall include, but need
36 not be limited to, all of the following:

37 (1) Identifying the respective roles and responsibilities of state
38 and local agencies in enhancing integrated and gainful employment
39 opportunities for people with developmental disabilities.

1 (2) Identifying strategies, best practices, and incentives for
2 increasing integrated employment and gainful employment
3 opportunities for people with developmental disabilities, including,
4 but not limited to, ways to improve the transition planning process
5 for students 14 years of age or older, and to develop partnerships
6 with, and increase participation by, public and private employers
7 and job developers.

8 (3) Identifying existing sources of employment data and
9 recommending goals for, and approaches to measuring progress
10 in, increasing integrated employment and gainful employment of
11 people with developmental disabilities.

12 (4) Recommending legislative, regulatory, and policy changes
13 for increasing the number of individuals with developmental
14 disabilities in integrated employment, self-employment, and
15 microenterprises, and who earn wages at or above minimum wage,
16 including, but not limited to, recommendations for improving
17 transition planning and services for students with developmental
18 disabilities who are 14 years of age or older. This shall include,
19 but shall not be limited to, the development of a policy with the
20 intended outcome of significantly increasing the number of
21 individuals with developmental disabilities who engage in
22 integrated employment, self-employment, and microenterprises,
23 and in the number of individuals who earn wages at or above
24 minimum wage. This proposed policy shall be in furtherance of
25 the intent of this division that services and supports be available
26 to enable persons with developmental disabilities to approximate
27 the pattern of everyday living available to people without
28 disabilities of the same age and that support their integration into
29 the mainstream life of the community, and that those services and
30 supports result in more independent, productive, and normal lives
31 for the persons served. The proposed policy shall not limit service
32 and support options otherwise available to consumers, or the rights
33 of consumers, or, where appropriate, parents, legal guardians, or
34 conservators to make choices in their own lives.

35 (d) For purposes of this chapter, the following definitions shall
36 apply:

37 (1) “Competitive employment” means work in the competitive
38 labor market that is performed on a full-time or part-time basis in
39 an integrated setting and for which an individual is compensated
40 at or above the minimum wage, but not less than the customary

1 wage and level of benefits paid by the employer for the same or
2 similar work performed by individuals who are not disabled.

3 (2) “Integrated employment” means “integrated work” as
4 defined in subdivision (o) of Section 4851.

5 (3) “Microenterprises” means small businesses owned by
6 individuals with developmental disabilities who have control and
7 responsibility for decisionmaking and overseeing the business,
8 with accompanying business licenses, taxpayer identification
9 numbers other than social security numbers, and separate business
10 bank accounts. Microenterprises may be considered integrated
11 competitive employment.

12 (4) “Self-employment” means an employment setting in which
13 an individual works in a chosen occupation, for profit or fee, in
14 his or her own small business, with control and responsibility for
15 decisions affecting the conduct of the business.

16 (e) The committee, by July 1, 2011, and annually thereafter,
17 shall provide a report to the appropriate policy committees of the
18 Legislature and to the Governor describing its work and
19 recommendations. The report due by July 1, 2011, shall include
20 the proposed policy described in paragraph (4) of subdivision (c).

21 ~~SEC. 3.~~

22 *SEC. 4.* Section 4869 is added to the Welfare and Institutions
23 Code, to read:

24 4869. (a) (1) In furtherance of the ~~intent~~ *purposes* of this
25 division to make services and supports available to enable persons
26 with developmental disabilities to approximate the pattern of
27 everyday living available to people without disabilities of the same
28 age, to support the integration of persons with developmental
29 disabilities into the mainstream life of the community, and to bring
30 about more independent, productive, and normal lives for the
31 persons served, it is the policy of the state that opportunities for
32 integrated, competitive employment shall be given the highest
33 priority for working age individuals with ~~development~~
34 *developmental* disabilities, regardless of the severity of their
35 disabilities. This policy shall be known as the Employment First
36 Policy.

37 (2) Implementation of the policy shall be consistent with, and
38 shall not infringe upon, the rights established pursuant to this
39 division, including the right of people with developmental

1 disabilities to make informed choices with respect to services and
2 supports through the individual program planning process.

3 (3) Integrated competitive employment is intended to be the
4 first option considered by planning teams for working age
5 individuals, but individuals may choose goals other than integrated
6 competitive employment.

7 (4) *Postsecondary education, technical or vocational training,*
8 *and internship programs may be considered as a means to achieve*
9 *integrated competitive employment or career advancement.*

10 ~~(4)~~

11 (5) This chapter shall not be construed to expand the existing
12 entitlement to services for persons with developmental disabilities
13 described in this division.

14 ~~(5)~~

15 (6) This chapter shall not alleviate schools of their responsibility
16 to provide transition services to individuals with developmental
17 disabilities.

18 (b) Regional centers shall ~~ensure that consumers, beginning at~~
19 ~~16 years of age, provide consumers 16 years of age or older, and,~~
20 where appropriate, their parents, legal guardians, ~~or~~ conservators,
21 ~~are provided or authorized representative~~ with information, in a
22 ~~language that an understandable form for the consumer and, as~~
23 appropriate, the consumer's ~~representative understand,~~
24 ~~representative,~~ about the Employment First Policy, about options
25 for integrated competitive employment, and about services and
26 supports, including postsecondary education, available to enable
27 the consumer to transition from school to work, and to achieve the
28 outcomes of obtaining and maintaining integrated competitive
29 employment.

30 (c) The department may request information from regional
31 centers on current and planned activities related to the Employment
32 First Policy.